

ORDINANCE NO. 46

AN ORDINANCE TO PROVIDE FOR THE MAKING OF PUBLIC IMPROVEMENTS WITHIN THE VILLAGE OF ALMONT AND MEETING THE EXPENSES THEREOF, AND TO PROVIDE PENALTIES FOR VIOLATION OF THIS ORDINANCE

THE VILLAGE OF ALMONT ORDAINS:

Section 1. DEFINITIONS

(a) COST. The term "cost" is used in this ordinance, when referring to the cost of any public improvement, shall include the cost of services, plans, condemnation, spreading of rolls, notices, advertising, financing, construction, and legal fees and all other costs incident to the making of such improvement the special assessments therefor and the financing thereof.

(b) PUBLIC IMPROVEMENT. The term "public improvement" as used in this ordinance shall mean any improvement upon public property which results in special benefit to the real property in the vicinity of such improvement.

Section 2. SPECIAL ASSESSMENTS. The entire cost and expense or any part thereof of all public improvements may be defrayed by special assessment upon the lands especially benefited by the improvement in the manner hereinafter provided.

Section 3. INITIATION OF PUBLIC IMPROVEMENTS. Proceedings for making public improvements may be initiated by resolution of the Council or by petition of the owners of 51% or more of the land or frontage liable to be assessed in any proposed special assessment district. All public improvements shall be made at the discretion of the Council and no petition shall be mandatory upon the Council.

Section 4. FORM OF PETITIONS. All petitions for public improvements shall be on a form supplied by the Village Manager and shall include an affidavit by one or more of the circulators that the signatures appearing thereon are genuine and each signer declares himself to be the owner of the interest in the land indicated. All such petitions shall be filed with the Village Manager for investigation and report and the Village Manager shall report the receipt of all such petitions to the Council at the next regular meeting following receipt of any such petition.

Section 5. INVESTIGATION BY VILLAGE MANAGER. All petitions for public improvements shall be investigated by the Village Manager to determine whether a sufficient number of valid signatures has been obtained and, if such investigation discloses a deficiency the said petition shall be returned to the circulator with notice of that fact. Where any lot or parcel of land is owned by more than one person, each person having an interest must join in the petition.

Section 6. DUTIES OF VILLAGE MANAGER. Whenever the Village Manager shall determine that a petition containing the required number of valid signatures has been received, or whenever the Council shall by resolution so direct, the Village Manager shall make an investigation of the proposed public improvement and report his findings to the Council. The said report shall include an analysis of the following:

- (a) Present assessed value of the land;
- (b) The estimated cost of the proposed project;
- (c) The need for the improvement; There shall also be included recommendations as to the following:
 - (a) The necessity, feasibility and desirability of the proposed improvement.
 - (b) The portion of the cost to be borne by the special assessment district and the portion, if any, to be borne by the Village at large.
 - (c) The extent of the improvement and boundaries of the district and
 - (d) Any other facts or recommendations which will aid the Council in determining whether the improvement shall be made and how the same shall be financed.

Section 7. FILING OF REPORT.

(a) No resolution determin^{ing} to proceed with any public improvement to be defrayed by special assessment shall be enacted until cost estimates have been prepared and a public hearing has been held on the advisability of so proceeding, which hearing shall be held not less than ten (10) days after notice thereof has been published and sent by first class mail to all property owners in the proposed district as shown by the current assessment roll of the village.

(b) Such resolution shall state the nature of the public improvement, the estimated cost thereof, the portion of the cost to be paid by special assessment and the portion to be paid from the general funds of the village, shall designate the district or lands and premises upon which such special assessments shall be levied and shall direct the method of determining the benefits upon the property in the district.

(c) The Assessor shall thereupon prepare a special assessment roll and shall enter and describe thereon all of the lands and premises to be assessed, together with the names of the persons, if known, owning such lands and chargeable with the assessment thereon, and shall assess the cost of such improvements against said lands and premises in the manner directed by the foregoing resolution. When such roll has been completed, it shall be endorsed by the Assessor and filed with the clerk.

(d) A public hearing shall be held by the Council for the purpose of correcting and reviewing such roll, which hearing shall be held not less than ten (10) days after notice thereof has been published and sent by first class mail to all property owners in the proposed district as shown by the current assessment roll of the village. At such hearing the Council shall review said roll and hear all objections thereto and may correct the roll and may then, or at a later date, confirm the roll as reported or corrected. It is provided, however, that no original special assessment roll shall be confirmed except by

the affirmative vote of five (5) members of the Council if prior to such confirmation written objections to the proposed improvement have been filed by the owners of property which will be required to bear more than fifty (50) percent of the amount of such special assessment.

(e) No public improvement to be financed in whole or part by special assessment shall be made before the confirmation of the special assessment roll for such improvement.

Section 8. MODIFICATION. The Council may, at or after the said public hearing, modify the said proposed improvement or district in any respect which they shall deem in the best interests of the Village at large; provided, that in the event the amount of work is increased or the boundaries of the district enlarged, then another hearing shall be held pursuant to notice required by Section 7 hereof. Any hearing may be adjourned from time to time without further notice.

Section 9. DETERMINATION TO MAKE IMPROVEMENTS. OBJECTIONS. If, after hearing any objections, the Council shall determine to proceed with the improvement, it shall so determine by resolution. Such resolution shall include the determination of the necessity for the improvement, set forth the nature thereof, designate the limits of the special assessment district to be affected, describe the lands to be assessed, determine the part or proportion of the cost to be paid by the lands especially benefited thereby, and determine the number of installments in which the said assessment may be paid, the rate of interest, not exceeding six (6) per cent, to be charged in the payment of any balance is to be deferred, and shall order the Village Manager to prepare plans, profiles and specifications for the work to be done. If there be any objections in writing filed with the Village Manager prior to the said hearing, the passage of such resolution shall require the concurrence of 5/7 of the Councilmen elect.

Section 10. COMPLETION OF PLANS. ADVERTISEMENT FOR BIDS. When the said plans, profiles and specifications have been completed, the Village Manager, shall return the same to the Council and the Council shall, if the work is to be done by independent contractor, order the advertisement for sealed bids for the work in accordance with the purchasing procedure. In addition, such advertisement shall specify that no contract shall be let until the special assessment roll has been confirmed and no bid may be withdrawn for forty-five (45) days after the opening thereof. In the event the work is to be done by the Village, the Village Manager shall present a revised estimate of costs at the time the said plans, profiles and specifications are returned to the Council.

Section 11. DETERMINATION OF COSTS. After the opening of the said bids, the Council shall revise the estimated cost of the said improvement upon the basis of the bids received or, where the work is to be done by the Village, shall revise the estimated costs on the basis of the estimate of the Village Manager after receipt of such estimate and shall direct the Village Assessor to make a special assessment roll of the part or proportion of the cost to be borne by the lands especially benefited according to the benefits received.

Notwithstanding any provision of this ordinance, the Council may, in its discretion, delay the preparation of the special assessment roll until after the completion of the improvement, in which case the actual cost thereof shall be reported to the Council, and the special assessment roll shall be then made for such actual cost rather than for the estimated cost as in other cases.

Section 12. DETERMINATION OF BENEFITS. The Council shall within two (2) months after the effective date of the ordinance, by resolution, establish standards to be used by the Village Assessor in determining the benefits to any lot or parcel of land in a special assessment district. Such standards shall, if benefit is to be measured by front footage, make allowances for side-frontage, and establish a policy for irregular lots. Such standards shall also establish a policy for the inclusion of non-abutting lots or parcels of land in special assessment districts, make allowances for the distance of such lands from the improvement, where distance affects the benefits received, and provide that the measurement of such distance shall be along the usual routes of access.

Section 13. NOTICE AND HEARING ON ROLL. A public hearing shall be held by the Council for the purpose of correcting and reviewing such roll, which hearing shall be held not less than ten (10) days after notice thereof has been published and sent by first class mail to all property owners in the proposed district as shown by the current assessment roll of the village. At such hearing the Council shall review said roll and hear all objections thereto and may correct the roll and may then, or at a later date, confirm the roll as reported or corrected. It is provided, however, that no original special assessment roll shall be confirmed except by the affirmative vote of five (5) members of the Council if prior to such confirmation written objections to the proposed improvement have been filed by the owners of property which will be required to bear more than fifty (50) percent of the amount of such special assessment.

Section 14. HEARING. CORRECTIONS OR CHANGES IN ROLL. CONFIRMATION. OBJECTIONS.

(a) The Council shall meet and review the said special assessment roll at the time and place appointed or at an adjourned meeting thereof and shall consider any objections thereto. The Council may correct said roll as to any assessment or description of any lot or parcel of land or other errors appearing therein. Any changes made in such roll shall be noted in the Council's minutes. After such hearing and review, the Council may confirm such special assessment roll with such corrections as it may have made, if any, or may refer it back to the Village Manager for revision, or may annul it or any proceedings in connection therewith. No special assessment roll shall be finally confirmed except by the affirmative vote of 5/7 of the Councilmen elect if prior to said hearing written objections to the proposed improvement have been filed with the Village Manager by the owners of property which will be required to bear more than fifty (50) per cent of the amount of such special assessment. The Village Manager shall endorse the date of confirmation upon each assessment roll.

(b) The excess by which any special assessment proves larger than the actual cost of the improvement and expenses incidental thereto may be placed in the general fund of the village if such excess is five (5) per cent or less of the assessment, but should the assessment prove larger than necessary by more than five (5) per cent the entire excess shall be refunded on a pro rata basis to the owners of the property assessed as shown by the current assessment roll of the village. Such refunds shall be made by credit against future unpaid installments to the extent such installments then exist and the balance of such refund shall be in cash. No refunds may be made which contravene the provisions of any outstanding evidence of indebtedness secured in whole or part by such special assessment.

(c) Additional pro rata assessments may be made when any special assessment roll proves insufficient to pay for the improvement for which it was levied and the expenses incident thereto, provided that the additional pro rata assessment shall not exceed twenty-five (25) per cent of the assessment as originally confirmed unless a meeting of the Council be held to review such additional assessment, for which meeting notices shall be published and mailed as provided in the case of review of the original special assessment roll.

Whenever any special assessment shall, in the opinion of the Council, be invalid by reason of irregularity or informality in the proceedings, or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the Council shall, whether the improvement has been made or not or whether any part of the assessment has been paid or not, have power to cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment, and whenever any sum or part thereof levied upon any property in the assessment so set aside has been paid and not refunded, the payment so made shall be applied upon the reassessment or if the payments exceed the amount of the reassessment refunds shall be made. No judgment or decree nor any act of the Council vacating a special assessment shall destroy or impair the lien of the village upon the premises assessed for such amount of the assessment as may be equitably charged against the same or as by regular mode of proceedings might have been lawfully assessed thereupon.

Section 15. ROLL TO BE FINAL AND CONCLUSIVE. Such roll shall be, upon confirmation, final and conclusive.

Section 16. CONTRACTUAL PROVISION. In the event that all persons or property owners to be affected by any proposed improvement be made and that a special assessment be levied in connection therewith, the Village may, in lieu of the foregoing procedure, enter into a written contract with all of the persons or property owners affected thereby, which contract when properly approved and executed shall operate as a complete Special Assessment Procedure and the assessment shall be made in accordance with said contract.

Section 17. RESOLUTION AND NOTICE. When any lot, building or structure within the Village, because of an accumulation of refuse, or debris, the uncontrolled growing of noxious weeds, or age or dilapidation, or because of any other condition or happening becomes a public hazard or nuisance which is dangerous to the health, safety or welfare of the inhabitants of the Village or those residing or habitually going near such lot, building or structure, the Village Manager may, after investigation, determine that a hazard or nuisance exists, prescribe a form of notice and give such notice by publication or by registered mail, addressed to the last known address of the owner of the land upon which such nuisance exists or to the owner of the building or structure itself, to abate such nuisance or remove such hazard. In the case of the removal of weeds, or snow, or ice, notice shall be necessary.

Section 18. CONTENTS OF NOTICE. The notice to abate or remove the hazard or nuisance shall specify the nature of the hazard or nuisance and describe the property on which the same is located and require the owner to abate or remove the hazard or nuisance promptly and shall designate a time within which the same shall be abated or removed which shall be commensurate with the nature of the hazard or nuisance.

Section 19. REMOVAL BY VILLAGE. If at the expiration of the time limit specified in the notice to remove or to abate a hazard or nuisance, the owner has not complied with the requirements thereof, or in any case where the owner of the land or of the building or structure itself is not known, the Council may, by Resolution, order such hazard removed or nuisance abated under the direction of the Village Manager by the proper department or agency of the Village, or may do the work by contract or by hire.

Section 20. MANAGER'S DUTIES. The Village Manager shall take all steps necessary to carry out the directions of the Council in removing a hazard or abating a nuisance, shall keep or cause to be kept an accurate record of all expense in connection therewith, and upon completion of the work to be performed, shall submit a report of the work done and all expense in connection therewith, to the Council.

Section 21. ASSESSMENT OF COSTS. The Council shall, by Resolution, after examination of the Manager's report determine what amount or part of each such expense shall be charged and the person, if known, against whom, and the premises upon which the same shall be levied as a special assessment. By such resolution the Council shall determine the number of installments in which the assessment may be paid, determine the rate of interest to be charged on installments, not to exceed six percent per annum, designate the district or land and premises upon which special assessments shall be levied, direct the Assessor to prepare a special assessment roll in accordance with the Council's determination and designate the name by which said assessment roll shall be known and referred to, and as often as the Council shall deem it expedient, require notice of all of the several amounts so reported and determined, to be given by the Clerk either by registered mail sent to the last known address of the owner as shown on the assessment roll of the Village, or by publication.

Section 22. SPECIAL ASSESSMENT ROLL. The assessor shall thereupon prepare a special assessment roll including all lots and parcels of land within the special assessment district designated by the Council and shall assess to each such lot or parcel of land such sums as may have been directed by the Council.

Section 23. CERTIFICATE OF ASSESSOR. When the Assessor shall have completed such assessment roll, he shall attach thereto and endorse thereon, his certificate to the effect that said roll has been made by him pursuant to a Resolution of the Council (giving date of adoption of same) and that in making the assessments therein, he has, as near as may be, according his best judgment, conformed in all respects to the directions contained in such Resolution and the Village Charter and the provisions of this Ordinance Thereupon, he shall file said special assessment roll with the Clerk who shall forthwith give notice as has been required by the Council.

Section 24. LIEN. DATE ASSESSMENTS DUE. INSTALLMENTS.

Upon the confirmation of each special assessment roll the special assessments shall become a debt to the village from the persons to whom they are assessed and shall until paid be a lien upon the property assessed for the amount of such assessments and all interest and charges thereon. Such lien shall be of the same character and effect as created by this charter for village taxes.

Due Date: Special assessments shall become due on such date as the Council shall prescribe.

Installment Payments: Any assessment may be made payable in yearly installments not to exceed fifteen (15) in number. The initial installment shall be due on such date as the Council shall prescribe. Subsequent yearly installments shall be spread on the annual village tax roll. The second installment shall be collected as part of the first village tax roll which becomes due six months or more after the due date of the initial installment. All unpaid future installments, from such date as the Council shall prescribe, shall bear interest at a rate not exceeding six (6) per cent per annum, which interest computed to the following September first shall be spread yearly upon the village tax roll together as one item with installments with interest computed to such date as the Council prescribes.

Collection Fees: Each special assessment, or the initial installment of such assessment when installment payments are provided for, shall be collected by the Treasurer without collection fee for a period ending on the last day of the second month following the month in which the assessment or initial installment falls due. On the first day of the third month following such due date, the Treasurer shall add to such assessment or initial installment a collection fee of four (4) per cent of the amount thereof, and on the first day of each succeeding month he shall add an additional one-half ($\frac{1}{2}$) of one (1) per cent collection fee. All collection fees shall belong to the village and be collectible in the same manner as the collection fee on village taxes.

Collection When Part of Tax Roll: Special assessment, or installments thereof which become due on July first of any year, and delinquent assessments together with accrued interest and collection fees thereon which have been placed upon the village tax roll, shall be collected in all respects as are village taxes due on such date and shall be returned to the County Treasurer with such taxes if unpaid on the following March first.

Delinquent Assessments: Special assessments or initial installments which become due other than on July first shall, if unpaid for thirty (30) days or more on May first of any year, be certified as delinquent to the Council by the Treasurer and the Council shall place such delinquent assessment on the tax roll for that year together as one item with accrued collection fees thereon to September first of such year.

Section 25. REPORT TO VILLAGE TREASURER. Whenever any special assessment roll shall be confirmed and be payable, the Council shall direct the Village Manager to transmit the said assessment roll to the Village Treasurer for collection. The Village Treasurer shall mail statements of the several assessments to the respective owners of the several lots and parcels of land assessed, as indicated by the records of the Village Manager, stating the amount of the assessment and the manner in which it may be paid; provided, however, that failure to mail any such statement shall not invalidate the assessment or entitle the owner to an extension of time within which to pay the assessment.

Section 26. PAYMENT WITHOUT PENALTY OR INTEREST. The whole or any part of any such assessment may be paid at any time after the date of confirmation of the special assessment roll until the last

day of the second calendar month following such confirmation without interest or penalty.

Section 27. SPREADING UPON THE ROLLS. The second installment shall be spread upon the Village tax roll for the year in which it falls due in a column headed "Special Assessments" together with interest upon all unpaid installments from the date of the confirmation of the roll to the first day of December in the year in which the said installment is spread upon the roll; provided, that any fraction of a month shall be considered a full month. Thereafter, one installment shall be spread in the same manner upon each annual tax roll together with the accumulated interest upon all unpaid installments.

Section 28. COLLECTION FEES. After each special assessment or installment has been placed on the tax rolls, the same shall be collected by the Village Treasurer with the same rights and remedies as provided in the Charter for the collection of taxes. On the 10th day of the second calendar month following due date, or in the case of installments spread upon the Village tax roll, on the 31st day of July in the next succeeding year, the Village Treasurer shall add to all assessments or installments paid on such day and thereafter a collection fee of four (4) per cent of the amount of the assessment or installment and on the 1st day of each succeeding month he shall add an additional one-half ($\frac{1}{2}$) of one (1) per cent as a collection fee. All collection fees shall belong to the Village and be collectible in the same manner as the collection fee for village taxes.

Section 29. PRE-PAYMENT. After the expiration of the period provided in Section 24 of this ordinance for payment without interest or fees any installment which has not been spread upon the tax rolls may be discharged by paying the face amount thereof together with interest thereon from the date of confirmation to the date of payment; provided, however, that if the public improvement has been financed by the sale of non-callable bonds or other evidences of indebtedness which are not pre-payable, then the interest shall be computed from the date of confirmation to the date upon which such installment would have fallen due had it not been prepaid. The Village Treasurer shall report to the Village Assessor all advance payments or installment so that the Manager shall have such information before spreading installments on the Village tax roll.

Section 30. CERTIFICATION OF COSTS. Upon completion of the improvement, the financing thereof, and the payment of the cost thereof, the Village Manager shall certify to the Council the total cost of said improvement together with the amount of the original roll for said improvement.

Section 31. LANDS DIVIDED AFTER ASSESSMENTS. Apportionment of Assessment. Should any lots or lands be divided after a special assessment thereon has been confirmed and divided into installments, the Village Manager shall apportion the uncollected amounts upon the several lots and lands so divided, and shall enter the several amounts upon the next tax roll. The apportionment, when the tax roll shall have been reviewed and confirmed, shall be final and conclusive on all parties.

Section 32. ILLEGAL ASSESSMENT. REASSESSMENT PROCEDURE. Whenever any special assessment shall, in the opinion of the Council, be invalid by reason or irregularity or informality in the proceedings, or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the Council shall, whether the improvement has been made or not, or whether any part of the assessments have been paid or not have power to cause a new assessment to be made for the same purpose for which the former assessment was made. All

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proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment, and whenever any assessment or part thereof, levied up on any premises has been set aside, if the same has been paid and not refunded, the payment so made shall be applied upon the reassessment on said premises, and the reassessment shall to that extent be deemed satisfied.

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Section 33. ASSESSMENT IRREGULARITIES, EFFECT. If in any action it shall appear that by reason of any irregularities or informalities, the assessment has not been properly made against the defendant, or upon the lot or premises sought to be charged, the court may nevertheless, on satisfactory proof that expense has been incurred by the Village, which is a proper charge against the defendant, or the lot or premises in question, render judgement for the amount properly chargeable against such defendant, or upon such lot or premises.

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Section 34. PENALTIES. Any person who violates or fails to comply with any provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction be fined not more than \$100.00 or be imprisoned for a period not to exceed 90 days, or to both such fine and imprisonment, in the discretion of the court.

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Section 35. SEPARABILITY. If any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

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Section 36. ORDINANCES REPEALED. All ordinances and parts of ordinances inconsistent with this ordinance are hereby repealed.

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Section 37. SHORT TITLE. This ordinance shall be known and may be cited as the "Special Assessment Ordinance" of the Village of Almont.

Section 38. EFFECTIVE DATE. This ordinance shall take effect and be in force 15 days after its publication.

Passed and approved by the Council of the Village of Almont; in regular session held

We the undersigned, President and Clerk of the Village of Almont, Michigan, do hereby certify that the above and foregoing ordinance known as ORDINANCE NO. , of the Village of Almont, was introduced at a regular meeting of the Village Council on the day of and was thereafter passed at a regular session of the Village Council, held at the Council Chambers on at least two weeks elapsing between the introduction and enactment.

Dated at Almont, Michigan this 1st day of July 1969

Gene Baker
Village Clerk

George H. Juhl
Village President

MEMO NO 84

SEPTEMBER 22, 1969

SUBJECT SPECIAL ASSESSMENT ON PUBLIC IMPROVEMENTS
TO VILLAGE COUNCILMAN

DETAILS At the last council meeting the question was raised about the method of assessing property owners.

I discussed this with Mr Jim Morrice, Village Attorney and he stated we must follow the new general assessment ordinance.

He stated in the case of these two sewer jobs under study being small projects that the village should do them on a contract bases. This would eliminate any public hearings.

The following methods is recommended:

- (1) Determine the cost of each project through bidding procedure.
- (2) From that determine the front foot cost for each property owner who would be using the sewer.
- (3) Notify in writing each property owner what the cost is to them for their frontage. Also indicate what the villages share is.
- (4) Prepare a contract for each property owner have it signed and notarized.

The alternative results are:

- (1) If by chance one or two do not sign up then they will not be hooked up until they sign.
- (2) If this is the case it places the responsibility strictly in the lap of the property owner as the village has maintained their end by providing the sewer.
- (3) If they do sign up and fail to pay their share it then can be placed on the tax roll the next year with interest.
- (4) In case of vacant lots when the requests for sewer are made the property owner is notified of his share of the costs to be paid before being tapped in the sewer.

PROVIDED
IN ORD #46
SEC. 16.